

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Judiciary, to which was referred House Bill No. 1278, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning water
- 3 and utilities.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 8-1-30-6 IS AMENDED TO READ AS FOLLOWS
- 6 [EFFECTIVE JULY 1, 2009]: Sec. 6. **While the utility company is**
- 7 **under review under section 3 of this chapter**, a municipality or other
- 8 governmental unit may not require a utility company ~~that provides~~
- 9 ~~water or sewer service~~ to sell property used in the provision of ~~such~~
- 10 service to the municipality or governmental unit under IC 8-1-2-92,
- 11 **under IC 8-1-2-93**, or otherwise, ~~unless the procedures and~~
- 12 ~~requirements of this chapter have been complied with and satisfied~~
- 13 **and may not exercise the power of eminent domain to acquire the**
- 14 **utility company's property that is used in the provision of service.**
- 15 SECTION 2. [EFFECTIVE UPON PASSAGE] **The general**
- 16 **assembly urges the legislative council to assign to an interim or**
- 17 **statutory study committee the topic of water rights, drainage, and**
- 18 **utilities (including utility easements). If a committee is assigned the**
- 19 **topic recommended for study by this SECTION, the committee**
- 20 **shall consider the following:**

- 1 **(1) Water and drainage issues as they relate to urban and**
- 2 **rural areas.**
- 3 **(2) Water and drainage issues as they affect the:**
- 4 **(A) construction of Class 2 structures;**
- 5 **(B) development of land for residential purposes;**
- 6 **(C) development of land for commercial and industrial**
- 7 **purposes; and**
- 8 **(D) operation of utilities (including utility easements).**
- 9 **(3) The appropriate role of drainage boards.**
- 10 **(4) The appropriate role of condemnation with respect to**
- 11 **water rights, drainage, and utilities (including utility**
- 12 **easements).**
- 13 **(5) Whether the common enemy doctrine of water diversion**
- 14 **should be retained, modified, or abrogated.**
- 15 **SECTION 2. An emergency is declared for this act.**
 (Reference is to HB 1278 as printed February 20, 2009.)

and when so amended that said bill do pass.

Committee Vote: Yeas 11, Nays 0.

Bray

Chairperson